

MEMORANDUM FOR: Chief, CA

THROUGH: Deputy Director (Plans)

SUBJECT: Amendment to the Foreign Agents Registration Act (S. 2136)

1. On 15 July we received your memorandum raising several questions with respect to the application of the Foreign Agents Registration Act and the effect of S. 2136. In your memorandum and by telephone you have described five situations with respect to which our comments are solicited. The answers follow.

2. The answer to question (a) is, in general, no. One may be required to register under S. 2136 if he agrees to act, or purports to hold himself out as, an agent of a foreign principal. However, this rule is qualified by the definition of "Agent of a foreign principle" in Section 1 of S. 2136. That section makes the definition applicable only to persons who perform designated acts within the United States. Accordingly, the performance of these acts within a foreign country and targeted to the populous of that country, or another foreign country, are not covered by the Foreign Agents Registration Act amendments.

3. Question (b) of your memorandum actually poses two questions. The first question is whether or not the hypothetical individual would be subject to the Foreign Agents Registration Act. To that question we may emphatically say no. The individual described would not act at the order, request or under direction or control of a foreign principal. Such a person might be one whose activities are

of that country, or another foreign country, are not covered by the Foreign Agents Registration Act amendments.

3. Question (b) of your memorandum actually poses two questions. The first question is whether or not <sup>le</sup> a hypothetical individual would be subject to the Foreign Agents Registration Act. To that question we may emphatically say no. The individual described would not act at the order, request or under direction or control of a foreign principal. Such a person might be one whose activities are financed or subsidized in whole or part by a foreign principal. But in most circumstances this would not be the case because there would be offset<sup>ing</sup> adjustments made on his contract with CIA. Accordingly, such a person would be our agent rather than that of a foreign principal.

4. The second question posed by question (b) of your paper is whether the activities of the individual which are a part of his cover would require his registration. The answer to this question will vary under different circumstances. In some cases, of course, filing a registration statement would enhance rather than endanger the individual's cover. The subject's cover could be such that he is entitled to exemption from registration under section 3(d) as one engaging in private non-political activities in furtherance of the bonifide trade or commerce of a foreign principal. ~~Such a~~ A

person could also be forced to register on the grounds that he is subsidized in part by a foreign principal, and in the interest of such principal is engaging in representing the principal's interest before an agency or official of the United States Government.

5. Question (c) of your memorandum is answered in the affirmative if the individual acts within the United States in the capacity of a public relations adviser. (section 1(c) (1) (ii))

6. Question (d) of your memorandum poses two questions. In the case of political propaganda planned abroad for publication in United States media, the answer will depend upon the method by which this is achieved. There is an exemption from the Foreign Agents Registration Act for any United States news service, magazine or other publication which has second class mailing privileges. This exception applies if the publication or organization is beneficially owned and operated by persons 80 per cent of whom are United States citizens and is not subsidized or financed by a foreign principal. This exception extends only to bonified news outlets. *information of legitimate reporting.* Again, it may be necessary to draw distinction between the actual status of the entity used for publication and the cover it has adopted.

7. The second part of question (d) relates to material originated abroad which a United States publication uses on its own initiative. The Foreign Agents Registration Act has no application to such a situation.

It is important to bear in mind that whether or not registration is required depends upon the person who is doing the act rather than the material acted upon or its location.

8. Question (e) of your memorandum cannot be answered directly. Before registration is required, there must be a foreign principal involved. A foreign principal must be a government, political party, insurgent group, political subdivision, a non-United States corporation with no principal place of business within the United States, or other foreign <sup>entity</sup> country. If the international organization under consideration is financed by, or acts for, or under the control of a foreign principal, registration is required. Likewise, the international organization could itself be regarded as a foreign political party if it is a unit or branch of an organization outside the United States having <sup>it</sup> an aim or engaged in, <sup>it</sup> an activity devoted to the establishment <sup>it</sup> or acquisition <sup>it</sup> that the ~~establishment~~, control ~~or acquisition~~ <sup>it</sup> of administration or ~~control~~ of a foreign government or subdivision thereof. In addition, such an organization is a political party if it is active ~~or~~ in furtherance of influencing public or political policies of a foreign country.

9. S. 1236 also amends the law with respect to conflicts of interest. Neither the prohibition on employing an agent of a foreign principal nor the requirement of certification in the public records, ~~at the Attorney General where such person is hired as a special government employee,~~ would apply to our personnel or agents in most cases. This is so not only because the DCI has the responsibility for protecting intelligence sources and methods, but because such a person would not technically be acting for or be financed by a foreign principal. This interpretation of the act has ~~not at present~~ been cleared with the Department of Justice. ~~It is conceivable that the Attorney General might disagree.~~ It is also conceivable that CIA may need the services of an agent of a foreign principal in a matter unrelated to his activities as an agent of a foreign principal. In the latter event, the provisions of S. 2136 would seem to apply. *The Department of Justice advises me that they would have no objection to an amendment exempting CIA from public registration under this Act.*

10. The amendments of S. 1236 relating to contributions to political campaigns do not apply to foreign elections.